THE DOCTRINE OF CONTINUOUS VOYAGES.

In a recent authoritative American work on international law the decision of the Supreme Court of the United States in the case of the Springbok is characterized as a "new and dangerous extension of the doctrine of continuous voyages which received from the publicists of the world outside of the United States, general and emphatic condemnation." Even conceding that the facts were as found by the court, the author says that the decision rested upon reasons which were subject to well grounded objections, and quotes with approval the language of Lawrence that, "if a belligerent may capture a neutral vessel honestly intended for a neutral port and condemn her cargo because he vaguely suspects it will be transferred to some vessel unknown to him, and sent on to some hostile destination also unknown to him, a new disability has been imposed upon neutral commerce."[1]

Mr. Taylor's treatment of this important subject seems very inadequate, as he completely ignores the subsequent history of the doctrine, and leaves the reader to infer that the rule to which this country gave its adherence is now discredited before the world.

I do not intend in this brief article to discuss the merits of the doctrine of continuous voyages as applied during our civil war, but merely to disclose its subsequent history and show that the matter is not so simple and one-sided as Mr. Taylor's excellent book would leave us to infer. A doctrine of international law which the great maritime powers of Great Britain, the United States, France[2] and Italy have advocated and actually enforced against

[1] *Taylor's International Law*, pp. 778, 779 (1901).

[2] I include France because of her action during the war with China in 1885. French writers on international law generally condemn the entire doctrine of continuous voyages, as was done by American statesmen when it was first worked out by the British courts in the early part of the nineteenth century. See 3 American State Papers (For. Relations), 106, 118. Spec. Messages Pres. Jefferson, Jan. 17, 1806; Mess. & Papers of the Presidents (Richardson), Vol. 1, p. 395.

The reader interested in the antagonistic views of neutral rights is referred to Des Droits et des Devoirs des Nations Neutres en temp de guerre maratime, by Hautefauille, a review of his theories by Sir Vernon Harcourt (Historicus),

neutrals, and which has been approved by an international commission, cannot properly be thus brushed aside, because in the judgment of learned jurists, it is not theoretically sound.[3]

It is true that the Springbok decision raised a storm of criticism and met with the general disapproval of European writers on international law. But so far as known the men who are immediately responsible for the action of governments have not joined in this chorus. Recent applications of the doctrine make it apparent that belligerents will not permit neutrals to escape responsibility for the violation of blockades or carrying contraband goods to the enemy by the nominal and fraudulent interposition of a neutral port. What is forbidden by the law will not be permitted to be done by indirection, and the cries of the victims caught in the act of violating the law will not receive much consideration. Like the ordinary dealer in contraband articles he will have to take his chances and carry his own insurance.

The subject is liable to become important in the near future. If China should become involved in the war now raging in the far East the geographical conditions are such as to inevitably raise the question of the application of the doctrine of continuous voyages. The location of Hong Kong will again make it an extremely convenient intermediate "neutral" port as during the Franco-Chinese war in 1885.

The doctrine of continuous voyages was developed by the English courts in the early part of the last century to meet the devices by which it was sought to avoid the rule of the war of 1756, which forbade neutrals in time of war to engage in a commerce from which they were excluded during peace. A neutral vessel might lawfully sail from a neutral port to a non-blockaded port of a belligerent with goods not contraband of war, and the simple device of interposing a neutral port between the forbidden colonial port and the belligerent port of ultimate destination suggested itself to the enterprising carriers. As trade between the colonies in America and between

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"Letters" (1863) and comments on the latter work by Mr. F. W. Payne in an essay on "Neutral Trade in Arms and Ships," in a volume entitled "Cromwell on Foreign Affairs" (London), 1901.

In an article on *Theorie du Voyage, Continu,* in *Revue Gen. de droit International and Public,* t. IV, p. 297 (1897), M. Paul Fauchille condemns the whole doctrine and calls for an international congress to consider the revision of the law.

[3]Prof. Moore (Int. Arb., Vol. 1, p. 695), and Dr. Wharton (Int. Law Dig., Vol. III, 362), suggest that the brief of Mr. Evarts was not filed in time to receive due consideration by the commission.

America and Europe was permitted, the Yankee skippers merely sailed from a colonial port to an American port, and from thence to Europe, and claimed exemption during the latter part of the voyage. The British courts met this evasion of the rule by holding that the two voyages were in fact one continuous voyage, unless the goods passed into the common stock of the country to which they were first carried. Naturally this rule did not meet with the approval of the neutrals who were thus deprived of a valuable carrying trade which was open to them. But while Americans were particularly energetic in their manifestation of disapproval, their objections were of no avail, and the rule was thoroughly established that "when the ultimate destination of a ship or cargo is such as to infringe belligerent rights, the offending ship cannot escape by stopping at an intermediate neutral port."

This doctrine was announced by Sir William Grant, afterward Lord Stowell, in judgments which have been acquiesced in as establishing restrictions that may reasonably be imposed by a belligerent upon a neutral commerce.

(1806.) *The William,* 3 *Rob.* 385, *Snow,* 505. This is a leading case. A cargo taken on board at La Guayra was brought to Marblehead, where it was landed and then re-embarked in the same vessel with the addition of some sugar, and within a few days thereafter sent to Bilboa, Spain. The vessel and cargo were condemned by Sir William Grant, who said, "The truth may not always be discernible, but when it is discovered it is according to the truth and not according to the fiction that we are to give the transaction its character and denomination."[1]

After the close of the Napoleonic wars no occasion arose for the application of the rule until 1855. During the Crimean War France condemned the cargo of the Dutch ship *Vrow Horwina,* which was captured while carrying saltpetre from Lisbon to the neutral port of Hamburg, to be from there carried overland into Russia. The hostile destination was inferred from various circumstances—such as that Hamburg was already overstocked with saltpetre, and that there was hence no local commercial demand for a further supply of that necessary ingredient of gunpowder. The cargo was condemned by the French Council of Prizes, in a judg-

[1] *Mr. Hall, International Law,* p. 695, says, "In this and in like cases the English courts condemn the property; but they were careful not to condemn it until what they conceived to be the hostile act was irrevocably entered upon; the cargo was confiscated only when captured on its voyage from the port of colonial importation to the enemy country."

ment which is commended by Calvo and printed in full in his work on International Law.[1] During the Civil War the United States invoked the same rule for the purpose of checking violations of the blockade as well as carrying of contraband goods to the Confederates. A blockade runner, by well established British and American rules, was subject to capture as soon as she had left her foreign port *with the intention of running the blockade*, and English boats loaded with goods destined for the Confederates were thus imperiled during the entire voyage across the Atlantic. But by clearing for the British port of Nassau, and there trans-shipping the goods to more suitable vessels, the danger line was brought to within a few miles of the blockaded coast. A barren rock in the Bahamas thus became a great commercial port. Its harbor swarmed with innocent looking neutral trading vessels, and the United States government was expected to presume that they had no relations with the rakish craft of race-horse build that frequently called at that busy port. The truth known to every one was that the whole trade was a manifest and palpable evasion of a recognized and admitted rule of maritime law. Nassau was a mere outpost for attack, a resting place while hovering off the coast and awaiting the arrival of a stormy night suitable for a dash to some convenient port.

In a series of prize cases the United States courts held that where the interposition of a neutral port was a mere pretence, the voyage was continuous, and that the vessel and cargo, or merely the cargo, depending upon the circumstances of each case, subject to condemnation.

> (1863.) *The Stephen Hart, Blatchf. Prize Cas.* 387, 3 *Wall.* 559, (1865). In this case the principle applied in a series of cases was given careful consideration by Judge Betts. The vessel was captured on Jan. 29th, 1862, off the coast of Florida about twenty-five miles from Key West and about eighty-two miles from Point de Yeacos, Cuba, bound ostensibly from London to Cuba, with a cargo consisting entirely of munitions of war and army supplies. It was thus a case of carrying contraband. The government contended and was able to show that the cargo was composed entirely of articles of contraband of war, destined when they left London to be delivered to the enemy either directly or by being carried into a part of the enemy country by the Stephen Hart, or by being trans-shipped at Cardenas to another vessel; that Cardenas was to be used merely as a port of call for the Stephen Hart or as the port of trans-shipment of the cargo; that the vessel and her cargo were

[1] *Calvo, International Law* (5th ed.), t. V., p. 50. See also *Revue de Droit, Int.*, t. XXIX, p. 55.

equally involved in the forbidden transaction, and that the papers of the vessel were simulated and fraudulent in respect to her true destination and that of her cargo.

"It would scarcely seem possible," said Judge Betts, "that there could be any serious debate as to the true principles of law applicable to the questions thus presented; in fact the law is so well settled as to make it only necessary to see whether the facts in this case bring the vessel and her cargo within the rules which have been laid down by the most eminent authorities in England and this country. * * * The law seeks out the truth and never in any of its branches tolerates any such fiction as that under which it is sought to shield the vessel and her cargo in the present case. If a guilty intention that the contraband goods should reach the port of the enemy existed when such goods left their English port, that guilty intention could not be obliterated by the innocent intention of stopping at a neutral port on the way. If there be in stopping at such port no intention to trans-ship the cargo, and if it is to proceed to the enemy's country in the same vessel in which it comes from England, of course there can be no purpose of neutral commerce at a neutral port by the sale or use of the cargo in the market there; and the sole purpose of stopping at the neutral port must be merely to have upon the papers of the vessel, an ostensibly neutral terminus for the cargo. If, on the other hand, the object of stopping at the neutral port be to trans-ship the cargo to a neutral vessel to be transported to the port of the enemy, while the vessel in which it was brought from England does not proceed to the port of the enemy, there is equally an absence of all lawful commerce at the neutral port; and the only commerce carried on in the case is that of the transportation of the contraband cargo from the English port to the port of the enemy as was intended when it left the English port. This court holds that in all such cases the transportation or voyage of the contraband goods is to be treated as a unit from the port of delivery in the enemy's country; that if any part of such voyage or transportation be unlawful, it is unlawful throughout; and that the vessel and her cargo are subject to capture; as well before arrival at the first neutral port at which she touched after her departure from England, as on the voyage or transportation by sea from such neutral port to the port of the enemy." Both vessel and cargo were condemned.

(1864.) *The Circassian.* 2 *Wall.* (*U. S.*) 135. The British steamer, Circassian, was captured while on an ostensible voyage from Bordeaux to the neutral port of Havana. No part of the cargo was contraband, but the ship and cargo were both condemned for intent to run the blockade of the port of New Orleans. It was held that evidence of an intent to run the blockade might be collected from bills of lading of the cargo, from letters and papers found on board the vessel, from acts

and words of the owners or hirers of the vessel and shippers of the cargo and their agents, and from spoliation of the papers on apprehension of capture. The chief justice said: "We agree that if the ship had been going to Havana with the honest intent to ascertain whether the blockade of New Orleans yet remained in force, with a design to proceed further if such should prove to be the case, neither ship nor the cargo would have been subject to lawful seizure, but it is manifest that such was not the intent. The existence of the blockade was known at the inception of the voyage, and its discontinuance was not expected. The vessel was chartered and her cargo shipped with the purpose of running the blockade and the destination to Havana was merely colorable."

(1865.) *The Bermuda,* 3 *Wall.* (*U. S.*) 514, 554. In this case it was held that a ship carrying contraband of war intended for the enemy is not saved by stopping or by trans-shipping her cargo at a neutral port, "unless there be an honest intention to bring them into the common stock of the country" where trans-shipped. Paying duties at a neutral port is not a defense.

(1866.) *The Peterhoff, Blatchf. Prize Cas.* 463, 5 *Wall.* (*U. S.*) 28, 58; *Snow,* p. 465. This case presented another phase of the doctrine of continuous voyages. The vessel was bound for the neutral port of Matamoras on the Rio Grande in Mexico, with a cargo which consisted in part of contraband articles intended for the use of the Confederate army. The question of blockade does not enter into the case. The district court condemned the ship and cargo, but on appeal the supreme court released the vessel and condemned the cargo. "While articles not contraband," said Chief Justice Chase, "might be sent to Matamoras and beyond to the rebel regions where the communications were not interrupted by blockade, articles of a contraband nature destined in fact to a state in rebellion, or for the use of the rebel military forces, were liable to capture, though primarily destined for Matamoras."

(1866.) *The Springbok, Blatchf. Prize Cases,* p. 349, 5 *Wall.* (*U. S.*) 1. The British owned bark Springbok sailed from London, December 8, 1862, and was captured by a United States vessel of war on February 3d, 1863, about one hundred and fifty miles east of the British port of Nassau on the Island of New Providence. This port was near the southern coast of the United States, and it was a matter of common knowledge that it had been largely used as one for the call and trans-shipment of cargoes intended for the ports of the insurrectionary States of the Union, then under blockade by the federal government. The vessel was brought into the port of New York, and after a hearing in the United States district court, both vessel and cargo were condemned.

On appeal to the supreme court of the United States, the vessel was released, but the decree of the lower court as to the cargo was affirmed.

The ship's papers were on their face regular, and it was said by Chief Justice Waite, "they all showed that th voyage on which she was captured was from London to Nassau, both neutral ports within the definition of neutrality furnished by international law. The shippers, too, were really genuine and there was no concealment of any of them and no spoliation. The owners were neutrals and do not appear to have any interest in the cargo. There is no sufficient proof that they had any knowledge of its alleged unlawful destination."

Our present interest is in the sufficiency of the evidence to establish an intent to run the blockade. A portion of the cargo was general merchandise and not contraband of war, but a large part consisted of articles especially fitted for military use, and a still larger part was capable of being adapted to such use. Thus, among other things found in certain packages the contents of which were not disclosed by the bills of lading, there was found five hundred and forty pairs of gray army blankets, like those used in the United States army; two hundred and four pairs of white blankets; three hundred and sixty gross of brass navy buttons, marked "C. S. N."; ten gross of army buttons marked "A."; three hundred and ninety-seven gross of army buttons marked "I."; one hundred and forty gross of army buttons marked "C." All the buttons were stamped on their under side, "Isaac Campbell, 71 Jermyn St., London." There were also eight cavalry sabres having the British crown on their guards, eleven sword bayonets, nine hundred and ninety-two pairs of army boots, ninety-seven pairs of russet brogans, and forty-seven pairs of cavalry boots.

The bills of lading disclosed the contents of six hundred and nineteen out of two thousand and seven packages, and both that and the manifest made the cargo deliverable to order. The master being directed by his letter of instructions to report himself on arrival at the neutral port to H., "who would give orders as to the delivery of the cargo." It also appeared that other vessels owned by the owners of the cargo and by the charterer of the vessel, and sailing ostensibly for neutral ports, were on invocation shown to have been engaged in blockade running, many packages on one of the vessels, and numbered in a broken series of numbers finding many of the complemental numbers on the Springbok. No application was made to take further proof in explanation of these facts, and the claim of the cargo, libelled at New York, was not personally sworn to by either of the persons owning it, resident in England, but was sworn to by the agent in New York on information and belief.

After holding that the vessel was not liable to condemnation, Chief Justice Waite said: "If the real intention of the owners was that the cargo should be landed at Nassau and incorporated by real sale into the common stock of the island it must be restored, notwithstanding this misconduct.

What then, was this real destination? That some other destination than Nassau was intended might be inferred from the fact that the consignment shown by the bills of lading, and manifest, was to order or assign. Under the circumstances of this trade already mentioned, such a consignment must be taken as a negation that any sale had been made to any one at Nassau. It must also be taken as a negation that any such sale was intended to be made there; that had such sale been intended, it is most likely that the goods would have been consigned for that purpose to some established house named in the bills of lading.

This inference is strengthened by the letter of Speyer & Haywood to the master, when about to sail from London, for the letter directs him to report to B. W. Hart, the agent of the charterers at Nassau, and receive his instructions as to the delivery of the cargo. The property in it was to remain unchanged upon delivery. The agent was to receive it and execute the instructions of his principal. * * *

A part of it, small in comparison with the whole, consisted of arms and munitions of war, contraband within the narrowest definition. Another and somewhat larger portion consisted of articles useful and necessary in war, and therefore contraband within the construction of the American and English prize courts. These portions being contraband, the residue of the cargo belonging to the same owners must share their fate.

But we do not now refer to the character of the cargo for the purpose of determining whether it is liable to condemnation as contraband, but for the purpose of ascertaining its real destination; for, *we repeat, contraband or not, if really destined for Nassau and not beyond; and contraband or not, it must be condemned if destined to any rebel port, for all rebel ports are under blockade.*

Looking at the cargo with this view, we find that part of it was specially fitted for use in the rebel military service, and a larger part, though not so specially fitted, was yet well adapted to such use. * * * We cannot look at such a cargo as this and doubt that a considerable portion of it was going to the rebel States, where alone it could be used, nor can we doubt that the whole cargo had one destination.

Now if this cargo was not to be carried to its ultimate destination by the Springbok (and the proof does not warrant us in saying that it was), the plan must have been to send it forward by trans-shipment, and we think it evident that such was the purpose. We have already referred to the bills of lading, the manifest and the letter of Speyer & Haywood as indicating this intention; the same inference must be drawn from the disclosures by the invocation, that Isaac Campbell & Co. had before supplied military goods to the rebel authorities by indirect shipments, and that Begbie was the owner of the Gertrude and engaged in the business of running the blockade.

If these circumstances were insufficient grounds for a satisfactory conclusion, another may be found in the presence of the Gertrude in the harbor of Nassau with undenied intent to run the blockade about the time when the arrival of the Springbok was expected there. It seems to us extremely probable that she had been sent to Nassau to await the arrival of the Springbok and to convey her cargo to a belligerent blockaded port, and that she did not so convey it only because the voyage was intercepted by the capture.

All these condemnatory circumstances must be taken in connection with the fraudulent concealment attempted in the bills of lading and the manifest, and with the very remarkable fact that not only has no application been made by the claimants for leave to take further proof in order to furnish some explanation of these circumstances, but that no claim, sworn to personally, by either of the claimants, has ever been filed.

Upon the whole case we cannot doubt that the cargo was originally shipped with the intent to violate the blockade; that the owners of the cargo intended that it should be transshipped at Nassau into some vessel more likely to succeed in reaching safely a blockaded port, than the Springbok; that the voyage from London to the blockaded port was, as to the cargo, both in law and in the intent of the parties, one voyage; and that the liability to condemnation, if captured during any part of that voyage, attached to the cargo from the time of sailing."[1]

The owner of the condemned vessel sought relief at the hands of the British government, and March 13, 1863, the Foreign Office was advised by Sir William Atherton, Sir Roundell Palmer, and Dr. Phillimore that "there was nothing to justify the seizure of the bark Springbok and her cargo, and that Her Majesty's government would be justified in demanding immediate restitution of her cargo without submitting to any adjudication of the American Prize Courts." Sir Wm. Harcourt and Mr. Mellish, afterward Lord Justice, also gave an opinion in which it was said, "that in a case where the ship itself is really and bona fide destined for a neutral port (and that is here admitted to be the case) *the onus of proof lies on the captors, and they ought to give clear and conclusive evidence* to justify the inference that the cargo itself has a different destination. The Supreme Court have in their judgment justly stated that the real question on which the condemnation must turn is the original destination of the cargo, but when we come to examine the grounds upon which the court found a conclusion adverse to the cargo, we

[1]The general rule was recognized in *The Pedro,* 175 U. S. 354 (1899), but it was held not to apply to the facts of the case.

find that those grounds were, many of them, inaccurate in fact and erroneous in principle."

The claims were submitted to a commission provided for by the treaty of Washington. This commission, composed of James S. Fraser, representing the United States; Russell Gurney, representing Great Britain, and Count Corti, the Italian Minister to the United States, awarded $5,065 damages for the detention of the vessel from the date of the decree in the district court to the date of her discharge by the supreme court, but unanimously disallowed any claim for the condemnation of the cargo. It is interesting to note that in the claimant's brief the rule as announced in the case of the Bermuda was recognized as correct, and that the only objection to the judgment in the Springbok case was the insufficiency of the evidence to justify the findings of fact.[1]

The doctrine as applied by the supreme court was thus recognized as sound by the United States and Great Britain and has never since been questioned by either. Great Britain's acquiescence in the American application of the doctrine is conclusively shown by her action during the recent Boer war. Writing while the war was in progress, Professor T. S. Woolsey said: "In spite of the adverse opinions of some of the best British jurists, we must expect the English government to seize all military supplies bound to the Portuguese port of Lorenzo Marques in Delagoa Bay, acting on the presumption that it is the Boers who want them, and that the shippers know it."[1]

> (1884.) *Sir Travess Twiss. Belligerent Right on the High Seas since the Declaration of Paris. Also* 1877. *Law Mag. & Rev.,* Vol 3 (4th Sec.) 1.
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> This distinguished English jurist published two articles in which vigorous attacks were made upon the decision of the Springbok case. In speaking of the judgment of the Supreme Court, he said: "Such a severe exposition of the law of blockade is not to be found upon record in any of the reported judgments of the European Prize Courts, and it is not too much to say that it added a new terror to war, and as regards neutral commerce has also introduced a new *ratio decidendi* into Prize Court proceedings, to which other nations may with justice demur. * * * It may be presumed that the judges of the Supreme Court of the United States did not foresee the wide scope of interference with neutral commerce which the

[1] *Moore, International Arbitrations,* Vol. 4, p. 3930.

[2] *T. S. Woolsey, Neutral Rights and Contraband of War, The Outlook,* Vol. 64, p. 164.

doctrine of blockade by interpretation would authorize and that they overlooked the fact that no evidence can in the nature of the case be forthcoming in the ship's papers or in the cargo's papers to refute the suggestion of a possible re-shipment of the cargo on board another vessel destined to a blockaded port after it has been delivered at the port of the ship's actual destination. Besides it is an axiom of maritime prize law that with reference to the cargo on board, the general ship's manifest and bills of lading are the best evidence of both ownership and the destination of the cargo."

(1870.) *Prof. Montague Bernard,* in his work entitled, *"The Neutrality of Great Britain during the American Civil War,"* p. 320, says: "Not only was the rule severe, but it was applied with severity. The evidence of an ulterior destination was in some cases slight. * * * It is probable that all through the war very few cargoes were really intended to be trans-shipped at Nassau; and that injustice would rarely be done by acting on the assumption that the business of southern traders or agents residing there was not so much to make purchases on the spot as to forward the transmission of goods from Europe. Yet, we cannot fail to see that if the fact of an ulterior destination is to be considered as established by evidence so slender as we find in some of these cases, neutral traders and carriers may have to encounter serious risks and hardships."

The same writer, in discussing the position of the neutral trader, says: "It must, I think, be owned that while the rules which have been gradually worked out by the prize courts of Great Britain and America are not on the whole inequitable, the application of these rules has sometimes been severe. The excuse for this severity lies in the extreme facility with which the rules themselves may be evaded. The jurisprudence of prize courts is incessantly struggling with artifices and contrivances which are traditional, and resorted to in all maritime wars, which are as easy to practice as they are difficult to unmask,—artifices and contrivances by which neutral trade is constantly struggling to escape the heavy pressure of war and elude its restraints."

(1885.) *Sir Robert Phillimore, International Law,* 3rd ed., p. 490, says: "It seems to me, after much consideration and with all respect to the high character of the tribunal, it is difficult to support the decision of the majority of the Supreme Court of the United States in the case of the Springbok, that a cargo shipped for a neutral port can be condemned on the ground that it was intended to trans-ship it at that port and forward it by another vessel to be a blockaded port."

(1876.) *Sir Edward Creasy* in his *First Platform of International Law,* p. 624, wrote: "In the administration of all law, international as well as municipal, realities and not shams are to be regarded. The artifice which is in fraud of a law is

itself a breach of the law. Unquestionably there ought to be a very full and clear proof of such artifice being practiced as well as planned. The burden of proof necessarily lies on the captors, who impute liability to seizure. Nay, more, the neutral destination of the ship ought to be looked on as a presumptive proof of the neutral destination of the cargo; and the evidence on behalf of the captors to outweigh such presumption ought to be very different in quality and amount from what it was held sufficient in the case of the Springbok. But if full and clear evidence is adduced that the contraband goods are not destined for sale and consumption in the neutral market, but that the direct and primary object of their shipment was to forward them to or toward the enemy, then the belligerent against whom they were destined to be used has a right to protect himself by arresting and seizing the intended instruments of ill to him while they are on the seas, which are the highways of all nations but the territories of none."

(1866.) *Godfrey Lushington* in the *Manual of Naval Prize,* prepared for the use of the British navy, uses the following language: "Connected with the subject of contraband is the important question of the mode of ascertaining the destination of goods on board a vessel. In this volume it has been treated as conclusively determined by the destination of the vessel. This view is clearly to the interest of neutrals. On the other hand, the interest of the belligerent when endeavoring to intercept contraband goods from going to the enemy, is to look to the goods. * * * Judged by principle, the view of the belligerent seems correct. A neutral vessel which forwards munitions of war on their way to their ultimate destination to one of the belligerents is really aiding and abetting in the war, and this on the high seas. This view is maintained by Halleck, Duer, and Historicus, and was enforced by the Americans in the cases of the Stephen Hart and the Commercen.

But the decision of the British courts, so far as they extend, have been in the opposite direction. The view of the neutral was supported in the case of the Hendric and the Alida, and more recently in the case of *Hobbs v. Henning.* As to the last case, however, it is to be observed that the judgment of the court of common pleas was only upon the proceedings, and apparently rests upon no other authority than that of Ortolan, an avowed advocate of neutral rights, on an abstract theory which is indifferent alike to positive decisions and general practice."

(1893.) *Sir Sherston Baker* in his edition of *Halleck's International Law,* Vol. 2, p. 219, says that, "The decision in the case of the Springbok has been the subject of great discussion among publicists. * * * The rule of the Supreme Court of the United States has inflicted a serious blow on neutral rights and is in conflict with the views generally expressed by

the United States, and it is doubtful if it would be adopted by the courts of Great Britain."

In his later work entitled *"First Steps in International Law,"* p. 310 (1899), the same writer repeats this language in substance, and further states that, "It is a most unfortunate decision. * * * Vessels are captured while on their voyage from one neutral port to another, and were condemned not for that they had done, which was prima facie innocent, but on the suspicion of an intention to do an unlawful act."

(1893.) *Walker, J. A. Science of International Law,* p. 514. "This doctrine was extended by its original British proponents, solely to breaches of the 'Rule of 1756,' and to cases of fraudulent trade with the enemy on the part of British subjects. During the American Civil Struggle, however, the Supreme Court laid hold of the principle and applied it extensively to deal with the countless flight of the contraband traders and blockade runners who found in Nassau and other British West Indian harbors convenient intermediate stations for the carrying on of their illegitimate commerce with the Confederate ports. American cruisers captured many vessels in the outward voyage from Europe and the American judges made light of their professed destination to neutral ports. * * * The newly forged weapon was wielded with sweeping effect and goods susceptible of warlike use were freely condemned, though taken en route between neutral ports when circumstances made it in any way probable that their ultimate destination was the Confederate service. * * * This decision, it is very evident, materially extended the risks of the neutral trader in the interests of the belligerent, and it has accordingly been made the subject of severe and not unmerited adverse criticism at the hands of the supporters of neutral commerce." Citing *Rev. de Droit Int.* 1875, p. 241, and 1882, p. 328.

In the *Manual of Public International Law,* p. 209, by the same author, published in 1895, there is found the following reference to the opinion of Judge Betts in the case of the Stephen Hart: "This judgment does indeed appear but to represent a logical extension of the principle laid down by Grant and Scott, but the doctrine so administered provides the belligerent with a legal engine of immense power, and opens up a wide vista of possible unjustifiable and oppressive restrictions of special branches of neutral industry and commerce."

(1895.) *T. J. Lawrence, International Law,* p. 597. "Putting aside disputes as to fact, the statements of law involved in the decision are open to grave doubt. If a belligerent may capture a neutral vessel honestly intended for a neutral port, and condemn her cargo because he vaguely suspects it will be transferred to some vessel unknown to him, and sent on to some hostile destination also unknown to him, a new disability has been imposed upon neutral commerce. States at war will

in the future be able to establish what has well been called a blockade by interpretation, of any neutral port situated near the coast of the enemy. * * * Its authority has been seriously impaired by this chorus of disapproval. The utmost that can be allowed, is that, if the captors have clear and definite proof that the destination of the cargo is hostile, while that of the vessel is neutral, the court may separate between the two, and condemn the former while releasing the latter. Further it is impossible to go without inflicting grave injustice on neutral trade."

(1895.) *Mr. Hall* in the fourth edition of his well-known work on *International Law*, p. 695, note, says: "By the American courts during the Civil War, the idea of a continuous voyage was seized upon, and was applied to cases of contraband and blockade. Vessels were captured while on their voyage from one neutral port to another, and were then condemned as carriers of contraband and for intent to break the blockade. They were thus condemned, not for an act,—for the act done was in itself innocent, and no previous act existed with which it could be connected so as to form a noxious whole,—but on the mere suspicion of intention to do an act. Between the grounds upon which these and the English cases were decided there was, of course, no analogy. The American decisions have been universally reprobated outside the United States and would probably now find no defenders in their own country."

It will thus be seen that the general consensus of opinion among English writers is against the soundness of the doctrine *as applied* in the Springbok case. Many writers of high authority like Hall have characterized the particular decision with much warmth of language and a liberal use of adjectives, but their denunciations seem to have had no practical result upon the action of their governments. Practical statesmen have been impressed by the necessity and reasonableness of the rule when enforced with a proper regard for the real facts. Thus, Dr. Macdonnell, a late writer, says; "It must be conceded that but for the theory of continuous voyages, blockaders may be easily evaded in these days of developed railway communication. None the less is a new chain on neutral commerce forced by these decisions."[1]

The decision naturally received rough treatment at the hands of many of the continental advocates of extreme neutral right, although such writers as Calvo and Gessner admit that the doctrine of continuous voyages may properly apply when it can be conclusively proven that contraband goods are destined for the enemy,

[1]Quoted in *Snow's International Law*, p. 159.

and that the interposition of a neutral port was a mere subterfuge.[1] I give a few illustrations:

(1882.) *Paul Fauchille, Du Bleckus Maritime,* No. 335, ff. After speaking of the origin of continuous voyages, M. Fauchille says: "This doctrine was pushed by the Supreme Court of the United States so as to make it sustain the seizure of a vessel between the port of original departure and an intermediate neutral port, and this on the conjecture of an ulterior adventure being projected for the goods in question from such intermediate neutral port to a blockaded port. * * * The effect of this decision is to impose on a voyage between two neutral ports the penalties which may be imposed on a voyage between a neutral and a belligerent port. The decision stands on the fiction that though the vessel in which the goods are to be carried is changed at the intermediate port, yet the voyage is the same; and the reason would apply, no matter how many changes the goods might be subjected to, or how many successive neutral ports they might pass through. But international law repudiates such fictions. International law being eminently law based on common sense, the fiction in the present case imposed on neutral commerce irrationally onerous. It gives to belligerent cruisers power over a neutral port greater and more arbitrary than they possessed in respect to belligerent ports, since while neutrals can carry to non-blockaded ports objects contraband of war, they cannot without risk of seizure carry the same objects to another neutral port."

(1883.) *Dr. Geffken* in a note to *Heffter's Le Droit International de L'Europe,* p. 379, note, says: "One does not know how to protest energetically enough against such an illegal and arbitrary rule."

(1869.) *Dr. L. Gessner* in an article in the *Revue de Droit International,* Vol. VII, p. 236, says: "The doctrine, however, upon which the Supreme Court of the United States has condemned the entire cargo of the Springbok, a neutral vessel on her way to a neutral port is quite monstrous, more especially as the court acquits that *vessel* of any intention to violate the blockade. If such a doctrine were carried to its logical conclusions and enforced by a belligerent great maritime power as rigorously as it has been by the United States, all neutral property on the high seas might be treated as lawful prize of war."

As has been noted, Gessner gives a certain assent to the principle of continuous voyages in his remarks on the condemnation of the Springbok by our courts. He says: "That the capture can be justified even if the destination is a neutral port if it can be proved beyond a doubt that the contraband of war is destined for the enemy." See Woolsey, p. 357, with

[1] *Calvo, Le Droit Int.* (5th ed.), t. V, p. 43.

citation referring to Nord Deutsche Alleg. Zeit. of Dec. 29, 30, 1868.

(1186.) *Fiori, International Law,* Vol. 3, No. 1649 French Ed. by *Antoine.* "Contraband goods destined for one belligerent may be seized by the other belligerent if found on a neutral ship sailing between neutral ports, if it be plain that the intention was to supply the goods to the former belligerent. In this sense the voyages of such goods are continuous, as they constitute an indivisible unity as links in the same chain.. But this by itself would not justify the seizure of the vessel, but only the seizure of such goods as are actually contraband and no other.

(1884.) In January, 1884, a debate took place in the upper Chamber of the States-General of the Netherlands in which Count Van Lynder Van Sanderberg, Minister of State, said: "It matters not who the owners of her cargo may be; to what nationality they may belong, whether they are English, French, Dutch, or even American. A great principle is at stake, and the only satisfactory and conclusive proof that the United States government can give that it at length abandons and renounces a doctrine destructive of neutral trade, a judgment pronounced in error, will be the awarding of full compensation to the despoiled owners of the cargo, the long suffering victims of a flagrant miscarriage of justice. Is it not the clear course, is it not the duty of the Netherlands government, of the government of the country which gave birth to Hugo Grotius, to approach the United States of North America in conjunction with the other maritime powers for the purpose of prevailing on their government to retrace its steps? In my opinion this is clearly our duty."

(1882.) *The Institute of International Law.* The members of the Maritime Prize Commission in this learned body (Arontz, Brussels; Asser, Netherlands; Bulmerincq, Germany; Gessner, Germany; Hall, Great Britain; De Martins, Russia; Prantoni, Italy; Renault, France; Rollins, Brussels; Twiss, Great Britain), gave an opinion as to the juridical soundness of the decision in the case of the Springbok, from which the following quotation is made:

"That the theory of continuous voyages as we find it enunciated and applied in the judgment of the Supreme Court of the United States of America which condemned as good prize of war the entire cargo of the British bark Springbok (1867), a neutral vessel on its way to a neutral port, is subversive of an established rule of the law of maritime warfare, according to which neutral property on board a vessel under a neutral flag whilst on its way to another neutral port is not liable to capture or confiscation by a belligerent as lawful prize of war; that the novel theory as before propounded whereby it is presumed that the cargo after having been unloaded in a neutral port will have an ulterior destination to some enemy port,

would aggravate the hindrances to which the trade of neutrals is already exposed, and would, to use the words of Bluntschli, 'Annihilate such trade by subjecting the property to confiscation, not upon proof of an actual voyage of the vessel and her cargo to an enemy port, but upon the suspicion that the cargo after having been unloaded at the neutral port to which the vessel is bound, may be trans-shipped into some other vessel and carried to some effectively blockaded enemy port.'

That the theory above propounded tends to contravene the efforts of European powers to establish a uniform doctrine respecting the rights of neutral nations, inasmuch as the fact of the destination of a neutral vessel to a neutral port would no longer suffice of itself to prevent the capture of goods non-contraband on board.

That furthermore the result would be as regards blockade, every neutral port to which a neutral vessel might be carrying a neutral cargo, would become constructively a blockaded port, if there were the slightest ground for suspecting that the cargo after being unladen in such neutral port was intended to be forwarded in some other vessel to some port actually blockaded.

We, the undersigned, are accordingly of the opinion that it is extremely desirable that the government of the United States of America, which has on several occasions been the zealous promoter of important amendments of the rules of maritime warfare in the interests of neutrals, should take an early opportunity of declaring in such form as it may see fit, that it does not intend to incorporate the above propounded theory into its system of maritime prize law, and that the condemnation of the cargo of the Springbok shall not be adopted as a precedent by its prize courts."[1]

(1888.) *Charles Calvo, Le Droit International, etc.* (5th Ed.), t. v. p. 43.

Calvo reviews the Springbok case quite fully and gives the views of the different writers who had expressed opinions up to that time. He, like Harcourt and Gessner, expresses a qualified approval of the doctrine as applicable where the hostile destination is clearly made to appear.

At the meeting of the Association for the Reform and Codification of the Laws of Nations at Antwerp in 1877, Sir Francis Twiss read a paper in which he called the learned world to arms for the defense of neutral rights wounded in the house of its friends. In response, Mr. J. C. Bancroft Davis, late United States Minister to Germany, and for many years an official of the Department of State, published at Paris in 1877, a learned *brochure* entitled *Les*

[1]Compare with the rule adopted in 1896. Annuiare de l'Institut de Droit International, Vol. 15, p. 231, quoted *infra.*

[2]Printed in *Law Mag. & Rev.*, Vol. 3 (4th Ser.), p. 1. See also pamphlet referred to *supra.*

Tribunaux de Prises des Etats-Unis, which was a vigorous defense of the general principles applied in the series of prize cases by the United States courts. The gist of the whole matter is found in his statement, *"C'est simplement une question de preuves."* If the evidence is satisfactory and sufficient to prove that the goods are destined for the belligerent port, and that the intervening neutral port is a sham and a fraud the doctrine of continuous voyages may fairly and reasonably be applied. In fact, many of the writers who condemn the actual decision in the Springbok case admit that there could properly have been a judgment of condemnation had the evidence of hostile intent been sufficient. It would no longer be questioned that the evidence should be conclusive and that a vessel or cargo should not be condemned upon mere suspicion or upon presumptions raised by insufficient facts. But circumstances are sometimes more convincing than the testimony of witnesses. *Res ipsa loquitur.*

But the decision was severely criticised by many American writers, and Mr. Justice Nelson, one of the judges who decided the Springbok case, with very questionable propriety, sent a letter to Mr. W. B. Lawrence (the editor of Wheaton), in which he stated "that the Supreme Court was not familiar with the law of blockade at the time when the appeal in the case of the Springbok came before it, and that the minds of several of the judges were warped by patriotic sentiments and by resentment against England."[1] But as said by Judge Baldwin in his inaugural address as President of the International Law Association,—"Perhaps this particular criticism is sufficiently answered by similar rulings which have been made by the prize courts of France, and Italy, and the declaration put forth by the Institute of International Law in 1896."

> (1866.) *Dana's note* 231 to No. 508 of his edition of *Wheaton's International Law.*
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> "If the cargo is destined to be carried through a blockade it can be captured at any stage of the voyage. A neutral destination will often be interposed in such cases with all the ceremonies of landing, trans-shipment, sale, etc., as in the case of contraband, and the same test and principles of reasoning apply to both. This subject has been fully and ably treated by Mr. Harcourt (Historicus) in his pamphlet on the Nassau

[1] See this letter in *Law Mag. & Rev.* (4th Series), Vol. 3, p. 31, and reference to it in *Twiss' Belligerent Rights on the High Seas,* p. 27, and *Hall's Int. Law,* p. 695. For Lawrence's opinion on his letter of Sept. 30, 1873, to M. Rolin-Pacquemye, quoted in *Law Mag. & Rev., supra,* pp. 32, 34.

Trade, published in 1883, pp. 33 to 40. If the only objection to the cargo be its destination to be carried through the blockade, it is not enough to say that it was destined ultimately for a blockaded port, if it was not to be landed at a port not blockaded, whether enemy or neutral, and carried thence by land to the blockaded port; that in that case there is not an intent to carry the cargo through the blockade."

(1890.) *President Woolsey, International Law,* 6th Ed., 1890, p. 356, states the doctrine of continuous voyages as originally announced and applied by Lord Stowell and subsequently extended by the American courts during the Civil War, and adds that "It seems a natural extension of the English principle of continuous voyages as at first given out; but there is danger that the courts will infer an intention on insufficient grounds. A still bolder extension was given to it in our courts in the case of vessels and goods bound to the Rio Grande, the goods then being carried by lighters to Matamoras. We could not prohibit neutrals from sending goods to the Mexico side of the river, but if it could be made to appear that the goods were destined for a State belonging to the United States that was held to be a sufficient ground for condemnation of them; although in order to reach their destination they would go overland carriage over neutral territory."

(1886.) *Dr. Wharton* in his *International Law Digest,* Vol. 3, No. 362, p. 404, gives the case of the Springbok elaborate consideration and in his concluding comments says: "The decision in this case," so it was said by Bluntschli, who was one of the most liberal and most accurate of modern publicists, "has inflicted a more serious blow on neutral rights than did all the orders in council put together."

As is shown by the prior note, the disapproval of this famous decision so strongly expressed by Bluntschli, is shared with more or less intensity by all the eminent publicists of Europe, whose attention has been called to it, while even in English, from whose precedents the decision was in part drawn, it is treated by high authority as aiming an unjustifiable blow at neutral rights. As to the opinion, the following remarks may be made:

1. The opinion of the court has not that logical precision which enables us to discover how far the question determined involves the question of blockade. It cannot be clearly ascertained from the opinion whether the goods confiscated were held good prize because it was intended that they should run the blockade of some particular blockaded Confederate port, or because they were contraband destined for the belligerent use of the Confederacy.

2. The decision was approved by a bare majority of the court and among the dissenting judges was Mr. Justice Nelson, whose knowledge of international law was not equalled by that of any of his associates, and Mr. Justice Clifford, dis-

tinguished as much for his strong sense as for his practice in maritime cases. * * *

3. While the great body of foreign jurists, British as well as continental, protested against the decision, it is not a little significant to note that at the hearing before the commission, the British commissioner united in the confirmation of the decision. Down to this hearing it was understood that the British government, acting under the advice of its law officers, had disapproved of the condemnation.

4. The decision cannot be accepted without discarding those rules as to neutral rights for which the United States made war in 1812, and which except in the Springbok and cognate cases the executive department of the United States government, when stating the law, has since then constantly vindicated. The first of these is that blockades must be of specific ports. The second is, that there can be no confiscation of contraband goods owned by neutrals and in neutral ships on the ground that it is probable that such goods may be at one or more intermediate ports trans-shipped, or are trans-shipped and then find their way to the port blockaded by the party seizing.

5. The ruling is in conflict with the view generally expressed by the executive department of the government of the United States, a department which is not merely a co-ordinate authority in this respect of the judiciary, but is especially charged with the determination of the law of blockades, so far as concerns our relations with foreign states."

(1898.) *Dr. Freeman Snow, Manual of International Law,* p. 159, in a course of lectures delivered at the Naval War College and subsequently published by the government, states the rule as it is undoubtedly understood by our government. "There seems to be but little question that the evidence as to the destination of the cargo should be definite. A presumption should not be sufficient. In the case of the Springbok, although only about one per cent. of the cargo could be held as contraband, yet, of that proportion there could be no doubt as to its character."

(1901.) *Professor Theodore S. Woolsey* in an article on *International Law in "Two Centuries' Growth of American Law,"* p. 511, says, "During the Civil War in America an entirely new application was made of the principle above described; namely, to check evasions of the rules governing blockades and contraband. So far as the blockade was concerned the new application was made principally at the Nassau trade. Inasmuch as ships showing an intention to break the blockade could be seized as soon as they had left a foreign port, it was natural to hide this intention by sailing for some neutral destination not much off their real course, to be safe up to that point. In practice, however, the goods were there usually trans-shipped and put on a regular blockade runner.

> The presumption of the court that the ship, which is the vehicle of the offense in blockade violation (the goods implicated merely following its fate) was engaged in one continuous voyage whose terminus lay beyond the blockade lines, thus was apt to break down. * * * But in the case of contraband where it was the goods rather than the ship which was primarily guilty, and where their adaptability to the Confederate service often made their character clear, the continuous voyage principle was fair enough, where intent as regards their eventual delivery clung to them through the trans-shipment and sale."
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> After referring to the application of the principle in a subsequent case, Professor Woolsey remarks that "it is interesting to note how a theory somewhat duobtful at its origin has been taken up from time to time and adapted to meet the necessities of a belligerent, until it finally is accepted as law by every one. In this process of growth in the history of the doctrine of continuous voyages, the United States has played an influential, perhaps a determining part."

In 1889 Boyd, in his edition of Wheaton, enjoined his readers to bear in mind that these new rules are at present only the law of the United States, and it remains to be seen whether they will be adopted by other countries in the next maritime war." Time seems to have cleared up the doubt.

The doctrine of continuous voyages as construed by the United States, especially as applied to carrying contraband goods, has been recognized in subsequent cases and is now an established rule of maritime law. It is interesting to note that the extremest form of the rule has been most frequently approved by other countries. President Woolsey called the case of the Peterhoff, in which goods bound for Matamoras, to be hence carried by lighters into the Confederacy by a non-blockaded port, a bolder extension of the rule than the application to a vessel bound for blockaded ports.[1]

In 1885 the French government asserted the right to seize vessels carrying contraband articles to China, between a neutral port and the English port of Hong Kong.[2]

So in 1895, during the war between Italy and Abyssinia, the doctrine was again applied to a cargo of contraband goods destined on the surface to a neutral foreign port but with an evident ultimate overland destination to a belligerent country. The Netherlands steamer Doelwijk was captured in the Gulf of Aden by an Italian vessel of war while carrying contraband goods ostensibly from the

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[1] *International Law* (6th ed.), 1891, 207.

[2] See article by Dr. Geffcken, *China et Le Droit International,* in *Revue de Droit International et de Leg. Comparee,* Q. XVII, p. 149 (1885).

neutral port of Rotterdam to British India. After leaving the Red Sea the vessel had turned to the right toward Djibuti, a neutral port from which the goods were to go overland into the belligerent territory. The principle applied in the American cases was fully recognized by the Italian government, although the ship and cargo was released, as the war came to an end before the condemnation could take place.[3]

As applied in this case the doctrine met with general approval and was formally sanctioned by the Institute of International Law at its meeting in Venice in 1896 by the adoption of the following rule:

"La destination pour l'ennemi est presumee lorsque le transport va a l'un de ses ports, ou bien a un port neutre qui, d'apres des preuves evidentes et de fait incontestable, n'est qu' une etape pour l'ennemi comme but final de la meme aperation commerciale."[1]

There is no practical distinction between the Springbok and the Doelwijk cases.

During the war between China and Japan the Japanese searched the British mail steamer Gaelic in the harbor of Yokohama for persons of the description of contraband or analagous of contraband, seeking service and carrying to China material intended to be used for the destruction of Japanese ships. At the time of the search the persons had disembarked and proceeded on another ship to Shanghai, but the search was continued for material which they might have left on the vessel. The Gaelic was on a voyage from San Francisco to Hong Kong by way of Yokohama, but the vessels of the company to which it belonged often called at the Chinese port of Amoy, but there was no proof of any intention to do so on this voyage. The Japanese justified their acts on the ground both of the probability that the Gaelic might call at Amoy and of the doctrine of continuous voyages as applicable to contraband persons or goods on board her which were destined for China by way of Hong Kong. The British government objected to the pro-

[3] *Archivs diplomatiques*, 1897, t. I, p. 81. See also article by M. Diena in *Le Judgment du Conseil des prises d'Italie dans l'affaire du Doelwijk, Journal du Droit International Priv.*, t. XXIX, p. 268 (1897).

Le Conflit entre l'Italie et Abyssinia, Revue General de Droit Int. et Priv., t. IV, p. 39 (1897), by M. Despaganot.

L'affaire du Doelwijk, Revue General de Droit int. Priv., t. IV, p. 157 (1897), by E. Brusa.

Signor Fedozzi in *Revue de Droit Int.*, t. XXIX, p. 55 (1897).

[1] *Annuaire de l'Institut de Droit International*, Vol. 15, p. 231.

ceedings on the ground that the Gaelic had no hostile destination and that there was no proof of any intention to call at the Chinese port of Amoy. The incident is important as showing the attitude of the Japanese government toward the doctrine of continuous voyages. The case is reviewed in a note contributed by Professor John Westlake to Takahaski's International Law during the Chino-Japanese War.[2]

In this article, Westlake, who was one of the critics of the Springbok decision,[1] now states the rule in the following language: "Goods on board a ship destined to a neutral port may be under orders from the owners to be forwarded thence to a belligerent port, army, or navy, either by a further voyage of the same ship, or by trans-shipment, or even by land carriage. Such goods are to reach the belligerent without the intervention of a new commercial transaction, in pursuance of the intention formed with regard to them by the persons who are their owners during the voyage to the neutral port. Therefore, even during that voyage they have a belligerent destination, although the ship which carries them may have only a neutral one."

The latest application of the rule to which my attention has been called was by Great Britain during the Boer War in 1902, when she exercised the right to search British and German vessels bound for the Portuguese port of Lorenzo Marques with contraband goods destined overland to the country of the Boers.[2]

There is some uncertainty as to the position of the English courts. Matters growing out of the seizure of the Peterhof have been twice before them. *Hobbs v. Henning*[3] was an action by the owners of a confiscated cargo on a policy of insurance. The court refused to be bound by the findings of fact made by the Supreme Court of the United States, and used language which has been construed as condemning the legal grounds of the decision.[1] But Dr. Phillimore

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[2]Also printed in the *Law Quarterly Review*, Vol. 15, p. 23. Westlake says, however, that the doctrine of continuous voyages has no application to blockade running.

[1]See *Revue de Droit International*, Vol. VII, p. 259.

[2]In an article on "Contraband and the American Civil War Cases," 36 *Can. Law Jour.* (1900), it is said that Dr. Holland of Oxford gave an opinion that these seizures were justified by the American cases.

[3]1 Rob. 167.

[1]See 36 *Can. Law Jour.* 73 (1900), article on "Contraband and the American Civil War Cases," by Frank E. Hodgins.

more, in the last edition of his International Law,[2] says that Chief Justice Erle is in accord with the Supreme Court of the United States, and Professor Westlake,[3] says that the case "has been represented, I think, erroneously as repudiating the doctrine of continuous voyages. * * * On the whole, then, no positive opinion is to be found in *Hobbs v. Henning* on the doctrine of continuous voyages, and the tendency of the court's observation is not unfavorable to it." In the subsequent case of *Seymour v. London & Provincial Marine Insurance Co.*,[4] which was a similar action upon a policy of insurance, the doctrine of continuous voyages is clearly recognized and applied.

It is thus apparent that the doctrine of continuous voyages in its modern form is well established, although it is possible that M. Fauchille is justified in calling it a "veritable judicial anomaly." However, that may be, it is a rule which has been adopted for the purpose of meeting conditions which are intolerable to a belligerent, and so firmly is the doctrine now established that we may close this review with the remark of Professor Woolsey that, "It is interesting to note that a theory somewhat doubtful at its origin has been taken up from time to time and adapted to meet the necessities of a belligerent until it is finally accepted as law by every one. In this process of growth in the history of the doctrine of continuous voyages, the United States has played an influential, perhaps a determining part."[1]

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[2]1885, p. 393.

[3]*Law Quart. Rev.*, Vol. 15, p. 28 (1899).

[4]41 L. J. (N. S.) C. P. 193, affirmed in Exchequer Chamber; 42 L. J. (N. S.) C. P. 111, note.

[1]Two Centuries of Growth of American Law. *International Law*, by Theodore S. Woolsey, p. 503.